

AMENDED IN SENATE JUNE 19, 2006
AMENDED IN ASSEMBLY MAY 26, 2005
AMENDED IN ASSEMBLY MAY 12, 2005
AMENDED IN ASSEMBLY MAY 3, 2005
AMENDED IN ASSEMBLY APRIL 19, 2005
AMENDED IN ASSEMBLY MARCH 29, 2005
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 634

Introduced by Assembly Member Lieber
(Coauthors: Assembly Members Bass, DeVore, Shirley Horton,
Levine, Liu, Oropeza, and Pavley)
(Coauthors: Senators Alquist and Speier)

February 17, 2005

An act to add Chapter 12.3 (commencing with Section 7750) to Division 3 of the Business and Professions Code, relating to international marriage brokers.

LEGISLATIVE COUNSEL'S DIGEST

AB 634, as amended, Lieber. International marriage brokers.

Existing law provides that marriage is a personal relation arising out of a civil contract between a man and a woman. Existing federal law prescribes the manner in which a United States citizen may marry a foreign national.

Under specified circumstances, ~~on and after July 1, 2006,~~ this bill would require an international marriage broker, as defined, to provide basic rights information to a foreign recruit, as defined, in his or her

language. ~~The bill would require on and after July 1, 2006, every international marriage broker to be licensed by the Department of Consumer Affairs, and would prohibit licensure of a broker who has committed certain crimes. On and after July 1, 2006, the bill would further require the Department of Consumer Affairs and the Department of Justice to conduct criminal background checks on those brokers.~~ *This bill would require an international marriage broker to file a \$50,000 bond with the Secretary of State for the benefit of any person damaged by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure to provide services. The bill would also require an international marriage broker to file a disclosure form with the Secretary of State containing specified information. The bill would authorize the Secretary of State to charge and collect a filing fee for the purpose of carrying out these provisions. The bill would also require that the Department of Justice, the Speaker of the Assembly, and the Senate appoint a group to draft the basic rights information by June 30, 2006 2007. The bill would make a person who violates these provisions subject to a civil penalty not to exceed \$100,000 for each violation.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12.3 (commencing with Section 7750)
2 is added to Division 3 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 12.3. INTERNATIONAL MARRIAGE BROKERS
6

7 7750. For purposes of this part:

8 (a) "Basic rights information" means information about human
9 rights, immigration, and emergency assistance and resources, and
10 victim rights under California law with regard to domestic
11 violence. That information shall include, but not be limited to,
12 the following:

13 (1) Emergency telephone numbers for law enforcement and
14 the fire department.

15 (2) The fiancée visa application process and marriage-based
16 immigration status.

1 (3) Immigration relief available to immigrant victims of
2 domestic violence, sexual assault, trafficking, and other crimes
3 under the federal Violence Against Women Act of 1994 (Title
4 IV, P.L. 103-322) and Sections 101(a)(15)(T) and 101(a)(15)(U)
5 of the federal Immigration and Nationality Act (8 U.S.C. Sec.
6 1101 et seq.).

7 (4) The legal rights of immigrant victims of abuse and other
8 crimes in immigration, criminal justice, family law, and other
9 matters.

10 (5) The illegality of domestic violence, sexual assault, and
11 child abuse in California and the United States.

12 (6) Information on the dynamics of domestic violence.

13 (7) Domestic violence and sexual assault services in California
14 and the United States, including, but not limited to, the National
15 Domestic Violence Hotline and the National Sexual Assault
16 Hotline.

17 (8) The obligation of parents to provide child support for
18 children.

19 (b) "Client" means a person who is a resident of California
20 who contracts with an international marriage broker to meet
21 recruits.

22 (c) "International marriage broker" means any person,
23 corporation, partnership, sole proprietorship, or other legal entity
24 that does business in California and, for a fee, offers to California
25 residents dating, matrimonial, or social referral services
26 involving recruits by doing any of the following in-state:

27 (1) Exchanging names, telephone numbers, addresses, or
28 statistics.

29 (2) Selecting photographs.

30 (3) Providing a social environment for introducing clients to
31 recruits in a country other than the United States.

32 (d) "Recruit" means a person who is not a citizen or resident
33 of the United States and who is recruited by an international
34 marriage broker for the purpose of providing dating,
35 matrimonial, or social referral services.

36 ~~(e) This section shall become operative on July 1, 2006.~~

37 7751. ~~(a)~~ Prior to the release of any contact information of a
38 recruit, an international marriage broker shall first obtain his or
39 her consent to the release of that information.

40 ~~(b) This section shall become operative on July 1, 2006.~~

~~7752. Any international marriage broker that applies for a license pursuant to Section 7754 shall submit his or her fingerprints to the Department of Consumer Affairs,, and all of the following shall apply:~~

~~(a) The Department of Consumer Affairs shall submit to the Department of Justice the fingerprint images of the broker and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.~~

~~(b) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and thereafter compile and disseminate a response to the Department of Consumer Affairs.~~

~~(c) The Department of Justice shall provide a response to the Department of Consumer Affairs pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.~~

~~(d) The Department of Consumer Affairs shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for that broker or client.~~

~~(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing the requests described in this section.~~

~~(f) This section shall become operative on July 1, 2006.~~

7752. (a) (1) Prior to engaging in the business or acting in the capacity of an international marriage broker, each person shall file with the Secretary of State a bond of fifty thousand dollars (\$50,000) executed by a corporate surety admitted to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to fifty thousand dollars (\$50,000).

(2) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

1 ***(b) The bond required by this section shall be in favor of, and***
2 ***payable to, the people of the State of California and shall be for***
3 ***the benefit of any person damaged by any fraud, misstatement,***
4 ***misrepresentation, unlawful act or omission, or failure to provide***
5 ***the services of the international marriage broker or the agents,***
6 ***representatives, or employees of the international marriage***
7 ***broker while acting within the scope of that employment or***
8 ***agency.***

9 ***(c) An international marriage broker who is required to file a***
10 ***surety bond with the Secretary of State shall also file a disclosure***
11 ***form with the Secretary of State that contains all of the following***
12 ***information:***

13 ***(1) The international marriage broker's name, business***
14 ***address, and business telephone number.***

15 ***(2) The name and address of the international marriage***
16 ***broker's agent for service of process if one is required to be or***
17 ***has been appointed.***

18 ***(3) All Web site addresses and domain names owned or***
19 ***operated by the international marriage broker.***

20 ***(4) If applicable, the name, business address, business***
21 ***telephone number, and agent for service of process of the***
22 ***corporation or partnership employing the international marriage***
23 ***broker.***

24 ***(d) An international marriage broker shall notify the Secretary***
25 ***of State's office in writing within 30 days when the surety bond***
26 ***required by this section is renewed, and of any change of name,***
27 ***address, telephone number, or agent for service of process.***

28 ***(e) The Secretary of State shall post information***
29 ***demonstrating that an international marriage broker is in***
30 ***compliance with the bond required by this section on its Internet***
31 ***Web site. The Web site shall also disclose the information***
32 ***required by subdivision (c). The Secretary of State shall ensure***
33 ***that the information is current and shall update the information***
34 ***at least every 30 days.***

35 ***(f) The Secretary of State shall develop the disclosure form***
36 ***required to file a bond under this section and make it available to***
37 ***any international marriage broker filing a bond pursuant to this***
38 ***section.***

39 ***(g) An international marriage broker shall submit with the***
40 ***disclosure form a copy of valid and current photo identification***

1 to determine the international marriage broker's identity, such as
2 a California driver's license or identification card, passport, or
3 other identification acceptable to the Secretary of State.

4 (h) The Secretary of State shall charge and collect a filing fee
5 to cover the cost of filing the bond.

6 (i) The Secretary of State shall enforce the provisions of this
7 chapter that govern the filing and maintenance of bonds.

8 ~~7753. (a) (1) On or before July 1, 2006, the Department of~~
9 ~~Consumer Affairs shall promulgate regulations that require every~~
10 ~~international marriage broker to apply for, and receive a license~~
11 ~~from, the department in order to provide the services described in~~
12 ~~paragraph (1) of subdivision (e) of Section 7750. The department~~
13 ~~shall charge a fee sufficient to cover the costs of that licensing.~~

14 ~~(2) Each international marriage broker shall renew its license~~
15 ~~with the department every two years. The department shall~~
16 ~~charge a renewal fee sufficient to cover the costs of that renewal.~~

17 ~~(b) On or before July 1, 2006, the Department of Consumer~~
18 ~~Affairs shall further promulgate regulations that would disqualify~~
19 ~~for licensure, as described in subdivision (a), any broker who has~~
20 ~~committed crimes of a violent or sexual nature, or crimes against~~
21 ~~children, thereby prohibiting an international marriage broker~~
22 ~~from conducting business in this state, or from contracting with~~
23 ~~that client.~~

24 ~~7754.~~

25 7753. (a) An international marriage broker shall provide the
26 recruit with basic rights information.

27 (b) The information in subdivision (a) shall be provided in the
28 recruit's native language and displayed in a manner that
29 comports with the following:

30 (1) Separates the basic rights information from any other
31 information.

32 (2) Is easily accessible and highly visible.

33 (c) An international marriage broker shall refrain from
34 providing any further services to the recruit or client until the
35 broker has obtained and provided the recruit the information
36 described in subdivisions (a) and (b).

37 ~~(d) This section shall become operative on July 1, 2006.~~

1 ~~7755.~~

2 7754. (a) On or before June 30,~~2006~~ 2007, a group
3 composed of the following members shall draft the basic rights
4 information:

5 (1) One member appointed by the Department of Justice.

6 (2) Two members appointed by the Speaker of the Assembly.

7 (3) Two members appointed by the Senate.

8 (b) Those members shall include immigration experts,
9 members of groups advocating on behalf of victims of domestic
10 violence, and a representative of the federally designated state
11 domestic violence coalition.

12 (c) Those members shall serve at the pleasure of their
13 respective appointing authority, without compensation.

14 (d) *The group shall take into consideration similar*
15 *information required to be provided by the international*
16 *marriage broker under federal law.*

17 7755. *A person engaged in the business or acting in the*
18 *capacity of an international marriage broker shall not make*
19 *untrue or misleading statements to a client or recruit while*
20 *providing services to that client or recruit.*

21 7756. *A person who violates this chapter shall be subject to a*
22 *civil penalty not to exceed one hundred thousand dollars*
23 *(\$100,000) for each violation, to be assessed and collected in a*
24 *civil action brought by any person injured by the violation or in*
25 *a civil action brought in the name of the people of the State of*
26 *California by the Attorney General, a district attorney, or a city*
27 *attorney. An action brought in the name of the people of the State*
28 *of California shall not preclude an action being brought by an*
29 *injured person.*

30 7757. *Every international marriage broker doing business in*
31 *this state shall comply with this chapter and with the provisions*
32 *of Section 1375a of Title 8 of the United States Code.*